



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

MAR 11 2005

REPLY TO THE ATTENTION OF  
(AE-17J)

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Gilbert Spilman, President  
Aluminum Recovery Technologies, Inc.  
2170 Production Road  
Kendallville, Indiana 46755

Dear Mr. Spilman:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves the administrative matter of Aluminum Recovery Technologies, Inc., docket no. CAA-05-2004-0042. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on MAR 11 2005.

Pursuant to paragraph 10 of the CAFO, Aluminum Recovery Technologies, Inc., must pay the first payment of the civil penalty within 30 days of MAR 11 2005. Your check must display the case docket number, CAA-05-2004-0042, and the billing document number, 056005002. The remaining payments must be made according to the schedule specified in paragraph 10 of the CAFO.

Please direct any questions regarding this case to Mony Chabria, Associate Regional Counsel, 312-886-6842.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Brent Marable".

Brent Marable, Chief  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Anthony Sullivan, Barnes & Thornburg (w/enclosure)  
Judge Barbara A. Gunning (w/enclosure)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

IN THE MATTER OF:	)	Docket No. CAA-05-2004-0042
	)	
Aluminum Recovery	)	Proceeding to Assess an
Technologies, Inc.	)	Administrative Penalty
Kendallville, Indiana,	)	under Section 113(d) of the
	)	Clean Air Act,
Respondent.	)	42 U.S.C. § 7413(d)
_____	)	

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 24, 2004, U.S. EPA filed the complaint in this action against Respondent Aluminum Recovery Technologies, Inc., (Respondent or ART). The complaint alleges that ART violated Section 112 of the Act, 42 U.S.C. § 7412, and the National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production at 40 C.F.R. §§ 63.1500 et seq., at its facility in Kendallville, Indiana. Specifically, the complaint alleges that ART exceeded the dioxin/furan emission limits for thermal chip dryers found at 40 C.F.R. § 63.1505(e) (1).

3. ART filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

**Stipulations**

4. ART admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint, other than those admitted in its answer.

5. ART waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6. ART certifies that it is complying fully with the Secondary Aluminum NESHAP regulations found at 40 C.F.R. Part 63, Subpart RRR (§§ 63.1500 et seq.).

7. The parties consent to the terms of this consent agreement and final order (CAFO).

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

**Civil Penalty**

9. In consideration of the size of ART's business, the economic impact of the penalty on ART's business, ART's full compliance history and good faith efforts to comply, the duration of the violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice

requires, U.S. EPA agrees to mitigate the proposed penalty of \$150,000 to \$100,000.

10. ART must pay the \$100,000 civil penalty plus interest in installments due to the U.S. EPA within 30 days, 12 months, 24 months, and 36 months from the effective date of this CAFO, on the following schedule:

<u>Payment Due Date</u>	<u>Penalty</u>	<u>Interest</u>	<u>Payment Due</u>
30 days from effective date	\$15,000	\$0	\$15,000
12 months from effective date	\$25,000	\$850	\$25,850
24 months from effective date	\$30,000	\$600	\$30,600
36 months from effective date	\$30,000	\$300	\$30,300

Each payment shall be made by cashier's or certified check payable to the "Treasurer, United States of America," in accordance with paragraphs 11 and 12 below, within the schedule set forth above.

11. ART must send the check to:

U.S. Environmental Protection Agency  
Region 5  
P.O. Box 70753  
Chicago, Illinois 60673

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3590

Mony Chabria, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3509

13. This civil penalty is not deductible for federal tax purposes.

14. If ART does not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. ART will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. ART will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the

Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

**General Provisions**

16. This CAFO settles U.S. EPA's claims for civil penalties for the violations alleged in the complaint.

17. Nothing in this CAFO restricts U.S. EPA's authority to seek ART's compliance with the Act and other applicable laws and regulations.

18. This CAFO does not affect ART's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations.

19. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine ART's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

20. The terms of this CAFO bind ART, and its successors, and assigns.

21. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

22. Each party agrees to bear its own costs and fees in this action.

23. This CAFO constitutes the entire agreement between the parties.

24. This CAFO shall terminate when U.S. EPA determines that Respondent has fully complied with all terms and conditions of this CAFO, including payment, in full, of all penalties due and owing, and U.S. EPA provides written notice to Respondent of such termination.

**U.S. Environmental Protection  
Agency, Complainant**

Date: 3/11/2005

By: 

Stephen Rothblatt, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)

**Aluminum Recovery Technologies, Inc.,  
Respondent**

Date: 3/9/05

By: 

Name: Gilbert Spilman  
Title: Pres  
Aluminum Recovery Technologies, Inc.

**CONSENT AGREEMENT AND FINAL ORDER**  
**Aluminum Recovery Technologies, Inc.**  
**Docket No. CAA-05-2004-0042**

**Final Order**

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: 3-11-05



\_\_\_\_\_  
Bharat Mathur  
Acting Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604-3590



CERTIFICATE OF SERVICE

I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2004-0042, to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Aluminum Recovery Technologies, Inc., and its Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Gilbert Spilman, President  
Aluminum Recovery Technologies, Inc.  
2170 Production Road  
Kendallville, Indiana 46755


Anthony Sullivan  
Barnes & Thornburg LLP  
11 South Meridian Street  
Indianapolis, Indiana 46204-3535

U.S. E.P.A.  
REGIONAL HEARING CLERK  
MAR 11 11:09 AM  
RECEIVED

I further certify that I mailed a correct copy by U.S. EPA pouch mail to the Presiding Officer addressed as follows:

Judge Barbara A. Gunning  
Office of Administrative Law Judges  
U.S. Environmental Protection Agency  
Mail Code 1900L  
1200 Pennsylvania Ave., NW  
Washington, DC 20460-2001

on the 14<sup>th</sup> day of March, 2005.

  
Betty Williams  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER:

7001 0320 0005 8909 7025  
7001 0320 0005 8909 7940 Anthony Sullivan